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### Introduction

First, I would like to introduce myself. I own and operate a small Internet Service Provider (ISP) in the San Francisco Bay Area. Most of the customers of my ISP are residential users. We have some small business customers too.

Dispite its small size, my ISP offers a full range of services: dialup, web hosting, shell accounts, DSL, and T1s. Before DSL came along, we offered Frame Relay, but all of our Frame Relay customers switched to DSL so we dropped Frame Relay.

For the last two years, my ISP has had very little growth. The reason for this is that we loose a steady stream of customers to monopoly-subsidized providers: cable and ILEC (PacBell err rather SBC). Both of the monopoly providers are able to offer services at prices that we cannot match. We can't even come close. The reason we're still in business at all is that we offer much better service in terms of responsiveness, flexibility, accessabilty (of people), reliability.

To make my business thrive what I need is the ability to compete with the monopoly players on a more even footing. I need ISO Layer 2 access to the cable plant so that I can offer cable modem service. I need layer 2 access to PacBell's DSL services at an affordable price with an order fullfillment interface that is program-accessible on my computers.

PacBell prices their DSL offerings such that if I were to offer PacBell-based DSL to my customers, my cost per end-user would be about \$30/month more than PacBell sells to end-users. Since the end-user price is in the \$30-40/month range, there is no way that I can make money at this!

I've been offering Covad-based DSL. My costs are such that I cannot match the prices of the larger players.

Some of the cost disparities could be alleviated by an aggressive DSL wholesaler that bought from PacBell, Covad, AT&T (was Rhythms), Worldcom (was Northpoint), New Edge, and/or Focal and resold services to smaller ISPs. Unfortunantly, the only wholesaler currently operating on the west coast is PacWest reselling Covad and the pricing is not competative.

My gut feeling and observations tell me that PacBell is not intersted in selling DSL except to counter the threat of other companies growing in what they consider to be their market. They want to maintain their monopoly. To that end, they'll subsidize the Internet portion of the DSL offerings so that nobody but them can afford to buy the telco portion. This locks out competing ISPs. They'll try to keep the loop costs as

high as possible to keep out CLECs.

A good example is the possibility of running fiber to the neighborhood and then placing the DSLAM farther from the CO. This is the best method to provide DSL to people who are far away from the CO. PacBell has moved very slowly on this mainly because they don't have any real competition from the CLECs because the CLECs can't do this.

#### Comments Specific To FCC-01-360A1

FCC-01-360A1: Accordingly, we ask whether reduced regulation of services provided by incumbent LECs, regardless of the extent of existing competition, may foster competition and the deployment of broadband facilities used in the provision of many of these services. Interested parties are encouraged to address the costs and benefits of regulation in this context.

The ILECs are not interested in competition. Their goal is to maintain and extend their monopolies so that they can make as much money as possible. Reducing the regulation of ILECs cannot increase competition unless the reduction in regulation is used as a lure to get the ILECs to do something that increases competition.

FCC-01-360A1: ... we also invite comment on the Petition filed by SBC Communications on October 3, 2001, requesting an expedited ruling that it is non-dominant in the provision of broadband services, and asking the Commission to forbear from dominant carrier regulation of those services.

In many areas, for example Oakland, CA, a city of about 350,000 in the middle of the Bay Area, SBC is the only game in town. There is no cable Internet. There is almost no wireless Internet. All DSL lines run on PacBell (SBC) copper. Fortunately because of their regulations there are many fine ISPs offering service in Oakland. PBI (PacBell's Internet company) is not one of them because it is not a fine ISP. PBI is very very bad at customer service. They have no flexibility. They are not reliable.

In areas where cable Internet is available, not all of the Internet access is over PacBell (SBC) copper. However, anyone who wants a good ISP uses neither PBI or the cable company.

Reducing regulations on PacBell would not create competition or lower consumer prices. It would eliminate consumer choices thus removing any pressure on PBI to improve service.

FCC-01-360A1: For example, how should the presence of ?wholesale? regulations, such as those contained in section 251( c) of the Communications Act, affect our analysis of the level

of competition present at the ?retail? level? Finally, commenters should identify any other relevant market characteristics in the broadband services markets that may affect our analysis of market power.

Wholesale regulations are relevant if they are followed. Wholesale regulations that do not include all the necessary elements are also irrelevant. I don't know to what extent PacBell's (SBC's) DSL wholesale DSL offerings are regulated, but I can say that if they are regulated, the regulations are not sufficient to create good retail competition. They've stacked the deck in favor of PBI.

#### Wild Proposal

Here's my wild proposal. To create lots of competition, split the wiring plant from the switches. If a company owns essentially no wiring or is locally non-dominant in wiring then it should have very little restriction on what it does. If a company is locally dominant then it should be extremely restricted. The idea would be to cause the ILECs to split themselves in two: one part has the wires and the other part has the switches. The only regulation on the part with the wires would be that it could not play favorites. The only regulation on the part with the switches would be the requirement to interconnect with other LECs.

Do the same thing with the cable plant: the part with the cable couldn't provide the signal that goes on the cable.